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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,657	09/30/2005	Akihiko Suzuki	MAT-8757US	4641
53473	7590	02/02/2009		
RATNERPRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482			EXAMINER CHEVALIER, ROBERT	
			ART UNIT	PAPER NUMBER
			2621	
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			02/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,657

Applicant(s)

SUZUKI ET AL.

Examiner

ROBERT CHEVALIER

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1,6 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 6, and 11, are rejected under 35 U.S.C. 101 because the claim is directed to a program comprising nonfunctional descriptive material.

Program not claimed as embodied in computer-readable media is descriptive material per se and is not statutory because they are neither physical “things” nor statutory processes. See, e.g. Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. See MPEP 2106.IV.B.1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6, and 9-11, are rejected under 35 U.S.C. 102(b) as being anticipated by Dosaka (P.N. 6,445,876).

Dosaka discloses an image reproducing apparatus that shows all the limitations recited in claims 1, 6, 9, and 11, including the feature of storing a plurality of moving

pictures and displaying the plurality of moving pictures (See the capability of playing back stored moving pictures recited in claim 1 of Dosaka), the feature of compiling a menu of moving pictures displayed when an input is accepted (See the capability of receiving selection of any scene being playback and the capability of storing the same in the storage means as described in claim 1, lines 3-11, of the cited Dosaka's reference) and the feature of displaying the menu of moving pictures compiled by the moving picture menu compiling unit as specified in the present claims 1, 6, 9, and 11. (See Dosaka's claim 1, lines 12-16).

With regard to claim 10, the feature of the sequence of display of unshown moving pictures being changed among the plurality of moving pictures on the basis of input for the moving pictures being displayed as specified thereof is present in Dosaka. (See Dosaka's claim 1, lines 17-33).

5. Claims 2-3, 5, 7-8, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claim 4 contains allowable subject matter over the prior art of record.
7. The following is a statement of reasons for the indication of allowable subject matter:

The claimed invention is directed to a moving picture processing device. The independent claim identifies the feature of "accepting a selection instruction of image displayed by the menu display unit, and a selection instruction of item included in the characteristic menu of moving pictures; selecting unit for selecting a moving picture

having the characteristic indicated by the item, among the moving pictures identified by the image, from the moving picture storage unit when the input accepting unit accepts the selection instruction of image and further accepts the selection instruction of item included in the characteristic menu; and a menu changing unit for changing the image of the menu display unit by replacing the moving picture corresponding to the image of selection instruction accepted in the input accepting unit with the moving picture selected by the moving picture selecting unit". The closest prior art, Dosaka discloses a conventional image reproducing apparatus, either singularly or in combination fails to anticipate or render the above underlined limitations obvious.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki et al discloses a recording/reproducing apparatus which includes playlist selection capability.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT CHEVALIER whose telephone number is (571)272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROBERT CHEVALIER/
Primary Examiner, Art Unit 2621
January 27, 2009.